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Veröffentlichungsversion / Published Version

Stellungnahme / comment

Zur Verfügung gestellt in Kooperation mit / provided in cooperation with:

Stiftung Wissenschaft und Politik (SWP)

Empfohlene Zitierung / Suggested Citation:

Fischer, S., & Geden, O. (2015). *Limits of an "Energy Union": only pragmatic progress on EU energy market regulation expected in the coming months*. (SWP Comment, 28/2015). Berlin: Stiftung Wissenschaft und Politik -SWP- Deutsches Institut für Internationale Politik und Sicherheit. <https://nbn-resolving.org/urn:nbn:de:0168-ssoar-432437>

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Limits of an “Energy Union”

Only Pragmatic Progress on EU Energy Market Regulation Expected in the Coming Months

Severin Fischer and Oliver Geden

Since the Juncker Commission took office in late 2014, the idea of an “Energy Union” has been a central theme of the EU energy policy debate. Today, the Energy Union concept covers every area of current European energy and climate policy. Its primary objective is to create a coherent, overarching policy framework. From a political perspective, the Commission’s aim is to prevent any further renationalization of energy policy. But although the Member State governments constantly refer to the energy union concept, it is already clear that they will avoid or at least delay implementation of meaningful steps in the direction of such a union. Against this backdrop, it is unlikely that any fundamental changes will take place in the near future. And over the next few years, the focus of EU energy and climate policy will be on pragmatic progress in the area of energy market regulation—not on strategic large-scale projects.

In late February 2015, EU Commission Vice-President Maros Šefčovič presented the outcome of a months-long process of energy policy consultation and strategy development. According to his statement, the Commission’s goal of a “resilient Energy Union with a forward-looking climate change policy at its core” rests on five key pillars: energy security and solidarity, an integrated European energy market, increased energy efficiency, decarbonizing the economy, and intensified research and innovation.

Due to the breadth and ambiguity of the energy union concept, the 28 heads of state and government had no difficulty reaching agreement at the March 2015 meeting of the European Council to continue their efforts to develop the concept further. In

the coming months, the Commission will be making concrete proposals for the creation of the Energy Union.

The long career of an ambiguous concept

The Juncker Commission was not the first to present strategy papers on a Europe-wide energy union. Indeed numerous strategy papers have been written on the subject over the years and submitted to various political actors in the EU. Most of these were meant to be a blueprint for the further integration of European energy policy.

As early as 2010, then-President of the European Parliament Jerzy Buzek and former Commission President Jacques Delors

called for a politicization of EU energy policy, which they saw as focused too narrowly on the internal market, through the creation of a “European Energy Community”. Their primary goal at that time was to integrate the Central and Eastern European Member States into a system that would assure security of supply for all Europeans by establishing a new foundation for energy policy in primary law. Their proposal sparked debates among European politicians. The Commission and Member State governments showed little interest in a fundamental debate on the subject, however, especially since the EU had just adopted a series of pro-integration decisions between 2007 and 2009, in particular the implementation of the energy and climate targets up to 2020 and the agreement on the Third Internal Energy Market Package.

After years of stalemate on energy and climate policy, a substantive and thoroughgoing debate finally began to gain momentum in April 2014, triggered by an article in the *Financial Times* by then Polish Prime Minister (and current President of the European Council) Donald Tusk. The impetus for Tusk’s article was the polarized and increasingly contentious debate among the EU Member States over what priority climate and environmental policy considerations should be given in the overall design of EU energy policy. Ecological aspects had sidelined issues that Central and Eastern European governments considered to have a more important place on the agenda: questions of supply security, intra-European solidarity, and on the handling of Russian gas imports. It was against this backdrop that Tusk wrote his deliberately provocative article emphasizing the potential of conventional indigenous energy sources (coal, shale gas) and nuclear energy as means to secure the EU’s energy supply and calling for a new policy approach centered around the creation of a Europe-wide energy union.

The long-simmering disputes between the Northern and Western Europeans on the one side and the Central and Eastern

Europeans on the other left the level of pragmatic policy debates in the context of the Ukrainian crisis. Gradually, the divergent preferences of the Member State governments developed into a fundamental conflict at the European level. In this contentious political environment, new proposals from the Commission had relatively little chance of success. The trend toward renationalization of energy and climate policy that had been ongoing since 2010 now reached a new peak.

It thus proved to be a smart diplomatic move when Jean-Claude Juncker took up Donald Tusk’s modified version of the Buzek/Delors proposal, even before he assumed office as the President of the Commission in fall of 2014, and began campaigning for a form of energy union that would include all of the key existing areas of EU energy and climate policy. The task of designing a framework strategy for such an Energy Union, which he assigned to the new Commission Vice-President Šefčovič and the Commissioner for Energy and Climate Action Miguel Arias Cañete, was formulated in deliberately broad and ambiguous terms. Up to now, all of the Member State governments have taken a positive stance on the Energy Union—but they consistently try to use the concept in support of their own energy and climate policy positions within the EU.

Commission on the defensive

No other actor in the EU context has committed itself so clearly to the Energy Union as the Commission. The high priority of this issue on the Juncker agenda, the appointment of a Vice President for the Energy Union, and the inclusion of all activities in the area of energy and climate policy within the overarching framework of the Energy Union make patently clear how much political capital the Commission and its President are willing to invest in this process.

Up to now, this agenda-setting strategy may appear to have paid off. Not only the Member State governments but also the

European Parliament, energy companies, think tanks, and industrial and environmental associations have all issued position papers on the Energy Union and formulated their own “wish lists” for it. The Commission’s willingness to take up nearly all the suggestions it has received and to incorporate them into an overall concept has, however, tended to distract attention from the deep-seated conflicts of interest within EU energy and climate policy (see *SWP Comments* 55/2014).

In the past few years, even politically insignificant legislative procedures have been subjected to exhaustive discussion and debate at the level of the heads of state and government. This has undoubtedly weakened the role of the Commission and the European Parliament, with their generally more ambitious and pro-harmonization positions. In this light, the Commission’s recent initiatives are not least of all a means of reaffirming its position within the complex of inter-institutional relationships. The Commission is well aware of the danger that old conflicts could resurface in the upcoming phase of establishing the Energy Union. There is no other explanation for the energy union concept, which is little more than a revamped version of existing instruments under a new name. Thus, the Commission is contenting itself with simply applying the guidelines and regulations that have been adopted in recent years without interruption.

The “progress” of not moving backwards

In the coming months, it will become clear where the priorities of the Commission actually lie and how willing the Member States still are to pursue further integration. Fundamental conflicts of interest in the EU are usually not solved through comprehensive strategies but are made manageable through small, often inconspicuous, but problem-oriented steps in the direction of more harmonization. There are positive examples of this in EU energy

policy: the provisions introduced by the EU to build reverse gas flows in Central and Eastern Europe have significantly improved supply security in the region, and today are making it possible to supply gas to the Ukraine as well. Western European electricity markets have also been successfully integrated without the aid of sweeping European policy concepts. The prominent pattern of integration in EU energy policy can thus be described as taking small steps toward harmonizing the internal market while maintaining national political preferences.

This approach will most likely also be taken as a model for future efforts to build a European Energy Union. Despite this analysis, the focus of policy debates in the coming months will most likely be on two different topics: joint gas purchases, and the governance structure for implementing the EU energy and climate targets for 2030.

The Tusk proposal and the initial ideas for a Europe-wide energy union already identified the joint purchasing of gas by the EU as an important undertaking. It is envisioned as a means of increasing the bargaining power of European buyers when negotiating long-term contracts with Russian partners.

While this proposal was met with a positive reception in security policy circles, most of the major actors in energy policy expressed astonishment at the intention to create apparently cartel-like structures in the internal market. Already during the first exchange within the responsible Council working groups, it became clear that a majority of Member States rejected the plan. In its strategy paper on the Energy Union, the Commission stated that it would assess “options for voluntary demand aggregation mechanisms” in gas purchasing. Whether these options will actually be considered seriously appears highly doubtful from today’s perspective. The same is true of another idea favored by many Central and Eastern European governments: that of creating significantly more transparency around existing commercial gas supply con-

tracts. However, creating more price transparency across the EU looks more likely to be achieved through the Commission's anti-trust proceedings against Gazprom's business practices, launched in late April 2015.

In addition, the Commission has made much more promising proposals that have gone largely overlooked due to the highly charged debate over future relationships with Russian gas suppliers. These include stricter regulation and greater transparency in the use of natural gas storage facilities and a revision of the EU regulation on the security of gas supply, which stipulates a coordinated approach in the case of crisis and comprehensive crisis prevention. These initiatives have been met with little support in foreign and security policy circles but they would play a significant role in enabling the internal gas market to function smoothly and efficiently. The plans to expand and better coordinate the co-financing of cross-border infrastructure projects and to strengthen the role of the EU Agency for the Cooperation of Energy Regulators (ACER) promise to provide considerable added value for EU energy security.

A second key theme of EU energy and climate policy discussions in the coming months will be the governance structure for the energy and climate targets for 2030. Since the European Council agreed in October 2014 to abolish binding national targets for the expansion of renewable energy in the next decade and instead to formulate only a binding EU-wide target for 2030, the Commission will have to strike a delicate balance between voluntary commitments by Member States and robust monitoring of national measures. The debate over what form an improved European coordination of national energy and climate policies should take, and what the focal points of that coordination should look like shares many similarities with the deliberations over intensified economic policy coordination within the EU ("European Semester"). This will reveal the narrow limits of the Energy Union. For precisely this reason, the Commission has left the topic of govern-

ance out of its strategy paper at this stage entirely.

The energy union debate as a symptom of crisis

The debate over an energy union has gained significant momentum since 2014, creating the impression that the EU is on track to achieving substantial progress on integration. But a closer look shows, that most of the Member States are still openly resisting the convergence pressure they created for themselves through their jointly adopted energy and climate targets for 2030, and that they are still insisting on the primacy of national sovereignty over energy policy. The energy union discourse should thus be interpreted mainly as a symptom of an EU integration crisis.

For the Commission, the broad debate on the Energy Union still fulfills an important function. Compelling the Member States to agree to the Energy Union in principle will increase the near-term probability of more pragmatic and less politicized progress in energy market regulation. And the more integrated national electricity and gas markets become, the more important EU-wide governance of energy policy will be in the medium to long term.

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ISSN 1861-1761

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(English version of
SWP-Aktuell 36/2015)